

10/3/03
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DP85

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): David H. Davies; David L. Blankenbeckler; Michael Braitberg

Assignee: DPHI Acquisitions, Inc.

Title: First-side Dual Layer Optical Data Storage Disk and Method of Manufacturing the Same

Serial No.: 09/764,042 Filing Date: January 16, 2001

Examiner: Krynski Group Art Unit: 2651

Docket No.: M-9998 US

COMMISSIONER FOR PATENTS
Washington, D.C. 20231

POWER OF ATTORNEY BY ASSIGNEE OF ENTIRE INTEREST

Sir:

The above-identified assignee, hereby revokes all powers of attorney previously given and appoints the attorney(s) and/or agent(s) identified below to prosecute the above-identified application and to transact all business in the United States Patent and Trademark Office in connection therewith:

Customer No. 32605

Please address all correspondence and telephone calls regarding this application to:

Theodore P. Lopez
MacPherson Kwok Chen & Heid LLP
2001 Gateway Place, Suite 195E
San Jose, CA 95110
Phone: (408) 752-7040
Fax: (408) 392-9262

ASSIGNEE CERTIFICATION UNDER 37 CFR 3.73(B)

The undersigned representative of the above-identified assignee certifies that the above-identified assignee is the assignee of the entire right, title and interest in the above-identified

patent application/patent by virtue of a chain of title from the inventor(s) of the above-identified patent application/patent to the above-identified assignee as shown below:

1. From: David H. Davies To: DataPlay, Inc.
2. From: David L. Blankenbeckler To: DataPlay, Inc.
3. From: Michael Braitberg To: DataPlay, Inc.

The document was recorded in the United States Patent and Trademark Office at Reel 011481 Frame 0440.

4. From: DataPlay, Inc To: Silicon Valley Bank

The document was recorded in the United States Patent and Trademark Office at Reel 012493 Frame 0423.

5. From: Silicon Valley Bank To: DPHI Acquisitions, Inc.

A copy of the assignment document being attached hereto.

The undersigned (whose title is supplied below) is empowered to sign this certificate on behalf of the above-identified assignee.

Date: 4/15/03

By: Jeffrey L. Roberts
(Signature)

Name: JEFFREY L. ROBERTS
(Printed or Typed Name)

Title: DIRECTOR, FINANCE

SEP. 9. 2003 11:05AM MACPHERSON KWOK CHEN

NO: 478

P. 5-9998



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APRIL 16, 2001

PTAS

SKJERVEN MORRILL & MACPHERSON LLP
DAVID E. STEUBER
25 METRO DRIVE, SUITE 700
SAN JOSE, CA 95110



101605424A

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 01/16/2001

REEL/FRAME: 011481/0440
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

DAVIES, DAVID H.

DOC DATE: 01/12/2001

ASSIGNOR:

BLANKENBECKLER, DAVID

DOC DATE: 01/12/2001

ASSIGNOR:

BRAITBERG, MICHAEL

DOC DATE: 01/12/2001

ASSIGNEE:

DATAPLAY, INC.
6200 LOOKOUT ROAD
BOULDER, COLORADO 80301

SERIAL NUMBER: 09764042
PATENT NUMBER:

FILING DATE: 01/16/2001
ISSUE DATE:

ATTORNEY:

DES

ACTION: ICS	DATE: 4-16-01
ACTION: Chk P. Claims	DATE: 5-16-01
ACTION: F.F Review	DATE: 10-16-01
DOCKETED BY: TC	DATE: 4-25-01
FORM LETTER: YES/NO	DATE: 4-25-01
F.F Due	1-16-02
Status	1-16-03

RECEIVED
BY DOCKET DEPT.

APR 23 2001

SKJERVEN, MORRILL, MACPHERSON,
LLP

EXHIBIT A

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NO. 478 P. 6

011481/0440 PAGE 2

MARY BENTON, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

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ATTORNEY DO NO. 478 NO. P. 7-9998 US

02-06-2001

U.S. DEPARTMENT OF COMMERCE

PATENT AND TRADEMARK OFFICE

RECOR

1-16-01



101605424

.CE. PLEASE RECORD THE ATTACHED

TO THE HONORABLE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
ORIGINAL DOCUMENTS OR COPY THEREOF.

1. Name of conveying party(ies): (a) David H. Davies (b) David Blankenbecker (c) Michael Braitberg		2. Name and address of receiving party(ies): Name: DataPlay, Inc. Street Address: 6200 Lookout Road City: Boulder CO 80301 Country: USA
Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		3. Nature of Conveyance: <input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other <u>{Enter Description}</u> Execution Date: (a) (b) & (c) January 12, 2001
Name and address of receiving party(ies): Name: {Enter Name} Street Address: {Enter Street Address} City: {City} {State} {Zip} Country: {Country} Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input type="checkbox"/> No		
4. Application number(s) or patent number(s): If this document is being filed together with a new application, the execution date of the application is: January 12, 2001		59-764042
A. Patent Application No.(s) - {Patent Application Numbers} Title: Dual Layer Information Disk		B. Patent No.(s)
Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
5. Name and address of party to whom correspondence concerning document should be mailed: Name: David E. Steuber Internal Address: SKJERVEN MORRILL MacPHERSON LLP Street Address: 25 METRO DRIVE, SUITE 700 City SAN JOSE State CA Zip 95110		6. Total number of applications and patents involved: One
02/06/2001 RAHMEDI 00000049 192386 09764042		7. Total fee (37 CFR 3.41): \$40.00 <input checked="" type="checkbox"/> Authorized to be charged to Deposit Account 19-2386 <input checked="" type="checkbox"/> Charge Deposit Account 19-2386 for any additional fees required for this conveyance and credit deposit account 19-2386 any amounts overpaid
8. Statement and signature. <i>To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.</i>		DO NOT USE THIS SPACE
David E. Steuber 25.557 Name of Person Signing		Signature  Date 1/16/01
Total number of pages comprising cover sheet: 3		

Attorney Docket No.: M-9998 US

ASSIGNMENT

For good and valuable consideration, receipt of which is hereby acknowledged, we

David H. Davies
David Blankenbeckler
Michael Braitberg

hereby sell, assign and transfer to DataPlay, Inc., a Delaware corporation, having a place of business at 6200 Lookout Road, Boulder, Colorado 80301, its successors and assigns, the entire right, title and interest throughout the world in our invention in:

FIRST-SIDE DUAL-LAYER OPTICAL DATA STORAGE DISK AND METHOD OF MANUFACTURING THE SAME

for which we have executed a United States patent application on or about the date of this assignment, and all patent applications and patents of every country for said invention, including divisions, reissues, continuations and extensions thereof, and all rights of priority resulting from the filing of said applications; we authorize the above-named assignee to apply for patents of foreign countries for said invention, and to claim all rights of priority without further authorization from us; we agree to execute all papers useful in connection with said United States and foreign applications, and generally to do everything possible to aid said assignee, their successors, assigns and nominees, at their request and expense, in obtaining and enforcing patents for said invention in all countries; and we request the Commissioner of Patents and Trademarks to issue all patents granted for said invention to the above-named assignee, its successors and assigns.

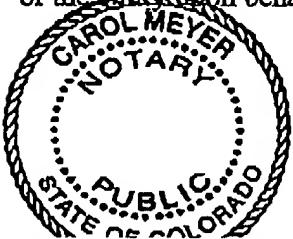
Executed this 12 day of January, 2001.



David H. Davies

State of Colorado)
County of Boulder) ss.

On 1-12-01 before me, Carol Meyer, Notary personally appeared David H. Davies personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.



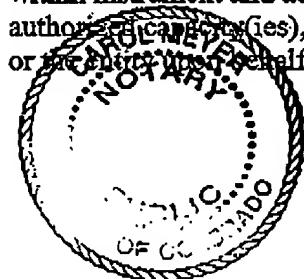
SIGNATURE OF NOTARY

Executed this 12 day of January, 2001.



David Blankenbeckler

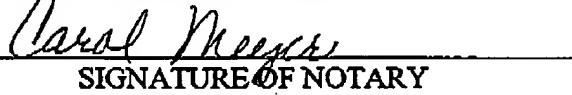
State of Colorado)
County of Boulder) ss.



My Commission Expires 07/29/2002

Executed this 12 day of January, 2001.

WITNESS my hand and official seal.



SIGNATURE OF NOTARY

State of Colorado)
County of Boulder) ss.



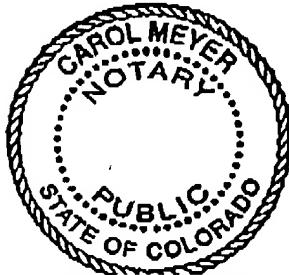
Michael Braitberg

On 1-12-01 before me, Carol Meyer, Notary
personally appeared Michael Braitberg personally known to me or proved to me on the basis
of satisfactory evidence to be the person(s) whose name(s) is(are) subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s),
or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



SIGNATURE OF NOTARY





UNITED STATES
PATENT AND
TRADEMARK OFFICE

MARCH 29, 2002

PTAS

Chief Information Officer
Washington, DC 20231
www.uspto.gov

SILICON VALLEY BANK
SHANNON HUBBARD
LOAN DOCUMENTATION HA155
3063 TASMAN DR.
SANTA CLARA, CA 95054

101971997A

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RECORDATION DATE: 01/29/2002

REEL/FRAME: 012493/0423
NUMBER OF PAGES: 12

BRIEF: SECURITY AGREEMENT

ASSIGNOR:
DATAPLAY, INC.

DOC DATE: 12/20/2001

ASSIGNEE:
SILICON VALLEY BANK
3063 TASMAN DR.
LOAN DOCUMENTATION HA155
SANTA CLARA, CALIFORNIA 95054SERIAL NUMBER: 09315398
PATENT NUMBER:FILING DATE: 05/20/1999
ISSUE DATE:SERIAL NUMBER: 09753356
PATENT NUMBER:FILING DATE: 03/15/2001
ISSUE DATE:SERIAL NUMBER: 09753109
PATENT NUMBER:FILING DATE: 12/29/2000
ISSUE DATE:SERIAL NUMBER: 09527982
PATENT NUMBER:FILING DATE: 03/17/2000
ISSUE DATE:

11W09159	11C0577167	11C051357
11W073797	11C0075264	11C0103295
11C00752602	11C0075222	11C0103884

11C0577167	11C051357
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11C0075222	11C0103884

G10433/0420 PAGE 2

SERIAL NUMBER: 09721587	PATENT NUMBER:	✓ FILING DATE: 11/21/2000 M-8534-1D ISSUE DATE:
SERIAL NUMBER: 09393899	PATENT NUMBER:	✓ FILING DATE: 09/10/1999 M-8532 ISSUE DATE:
SERIAL NUMBER: 09393150	PATENT NUMBER:	✓ FILING DATE: 09/10/1999 M-8530 ISSUE DATE:
SERIAL NUMBER: 09652975	PATENT NUMBER:	✓ FILING DATE: 08/31/2000 M-8532 ISSUE DATE:
SERIAL NUMBER: 09548128	PATENT NUMBER:	✓ FILING DATE: 04/12/2000 M-8746 ISSUE DATE:
SERIAL NUMBER: 09560781	PATENT NUMBER:	FILING DATE: 04/28/2000 M-8778 ISSUE DATE:
SERIAL NUMBER: 09457104	PATENT NUMBER:	FILING DATE: 12/07/1999 M-8535 ISSUE DATE:
SERIAL NUMBER: 09489084	PATENT NUMBER:	FILING DATE: 01/21/2000 M-8532 ISSUE DATE:
SERIAL NUMBER: 09557284	PATENT NUMBER:	✓ FILING DATE: 04/24/2000 M-8745 ISSUE DATE:
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SERIAL NUMBER: 09544370	PATENT NUMBER:	FILING DATE: 04/06/2000 M-8383 ISSUE DATE:
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SERIAL NUMBER: 09542681	PATENT NUMBER:	FILING DATE: 04/02/2000 M-8379 ISSUE DATE:
SERIAL NUMBER: 09533390	PATENT NUMBER:	FILING DATE: 05/30/2000 M-8381 ISSUE DATE:

012433/3413 PAGE 3

SERIAL NUMBER: 09542510	PATENT NUMBER:	FILING DATE: 04/03/2000	M-8582
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SERIAL NUMBER: 09583452	PATENT NUMBER:	FILING DATE: 05/30/2000	M-8376
SERIAL NUMBER: 60264351	PATENT NUMBER:	FILING DATE: 01/25/2001	
SERIAL NUMBER: 09630106	PATENT NUMBER:	FILING DATE: 10/04/2000	M-8725
SERIAL NUMBER: 09679941	PATENT NUMBER:	FILING DATE: 10/04/2000	M-8726
SERIAL NUMBER: 09675572	PATENT NUMBER:	FILING DATE: 09/29/2000	M-8727
SERIAL NUMBER: 09745597	PATENT NUMBER:	FILING DATE: 12/21/2000	M-8729
SERIAL NUMBER: 09815293	PATENT NUMBER:	FILING DATE: 03/21/2001	PA-8769
SERIAL NUMBER: 09745399	PATENT NUMBER:	FILING DATE: 12/21/2000	M-8730
SERIAL NUMBER: 09764026	PATENT NUMBER:	FILING DATE: 01/16/2001	M-8535-2P
SERIAL NUMBER: 09746265	PATENT NUMBER:	FILING DATE: 12/21/2000	
SERIAL NUMBER: 09730647	PATENT NUMBER:	FILING DATE: 12/05/2000	M-8746-1P
SERIAL NUMBER: 09666615	PATENT NUMBER:	FILING DATE: 09/20/2000	M-4804
SERIAL NUMBER: 09900722	PATENT NUMBER:	FILING DATE: 07/06/2001	PA-18129
SERIAL NUMBER: 09666627	PATENT NUMBER: 4639021	FILING DATE: 06/04/1984	PA-4803
SERIAL NUMBER: 09764042	PATENT NUMBER:	FILING DATE: 01/16/2001	M-9498
SERIAL NUMBER: 09802706	PATENT NUMBER:	FILING DATE: 03/08/2001	M-8726-1P

011655 0718

12433/0423 PAGE 4

SERIAL NUMBER: 09940023
PATENT NUMBER:

SERIAL NUMBER: 09846042
PATENT NUMBER:

SERIAL NUMBER: 09920004
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SERIAL NUMBER: 09872060
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SERIAL NUMBER: 09940174
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SERIAL NUMBER: 09940026
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SERIAL NUMBER: 09939896
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SERIAL NUMBER: 09939960
PATENT NUMBER:

FILING DATE: 08/27/2001 M-9743
ISSUE DATE:

FILING DATE: 05/01/2001 M-9848
ISSUE DATE:

FILING DATE: 07/31/2001 M-11533
ISSUE DATE:

FILING DATE: 06/01/2001 M-11585
ISSUE DATE:

FILING DATE: 08/27/2001 M-12038
ISSUE DATE:

FILING DATE: 08/27/2001 M-12039
ISSUE DATE:

FILING DATE: 08/27/2001 M-12040
ISSUE DATE:

FILING DATE: 08/27/2001 M-12041
ISSUE DATE:

FILING DATE: 08/27/2001 M-12042
ISSUE DATE:

FILING DATE: 08/27/2001 M-12043
ISSUE DATE:

MARCUS KORK, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

03-20-03 01:14PM From-HUTCHINSON BLACK and COOK, LLC

3034426593

T-826 P.02

F-873

ASSIGNMENT

This Assignment ("Assignment") is effective as of the date of execution hereof by SILICON VALLEY BANK ("SVB") having a place of business at 3003 Tasman Drive, Santa Clara, California 95054, GATX VENTURES, INC ("GATX") having a place of business at 3687 Mt. Diablo Boulevard, Suite 200, Lafayette, California 94549, and SEQUEL ENTREPRENEURS' FUND II, LP., in its capacity as Collateral Agent ("Sequel") having a place of business at 4430 Arapahoe Avenue, Suite 220, Boulder, Colorado 80303 (SVB, GATX and Sequel hereinafter collectively referred to as "Assignors"). The rights assigned herein will be owned by DPHI Acquisitions, Inc., a Delaware corporation, (hereinafter "Assignee"), with its principal place of business located at 2580 55th Street, Boulder, Colorado 80301.

WHEREAS, Assignors have acquired all rights, title and interest to technologies ("Technology") including, but not limited to, all versions of any software, firmware, hardware, chip layout and design, manufacturing processes, methods and system (including, without limitation, computer applications), ideas, inventions, disclosures, original works of authorship, developments, improvements, modifications, or enhancements, created, acquired and/or developed by or on behalf of DataPlay, Inc., including, without limitation, all object code and source code; all designs, drawings, specifications, models, data, algorithms, documentation, diagrams, flow charts and development plans, know-how and techniques, trade secrets and materials; all derivative works of the foregoing by whomever created (in object code, source code, or any other form and/or any media); and all tangible embodiments of the foregoing (in whatever form or media); and.

WHEREAS, Assignors hereby desire to irrevocably assign to Assignee all rights, title and interest in and to the Technology.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignors make the following assignment:

1. Assignors hereby irrevocably assign to Assignee all of Assignors' rights, title and interest in and to the Technology, said rights, title and interest including, but not limited to, all patent rights, copyrights, trademark rights, mask rights, trade secret rights and all other intellectual and industrial property rights anywhere in the world thereto, to have and to hold the same unto Assignee, its successors and assigns. In addition, Assignors hereby assign to Assignee and waives any and all moral rights Assignors may have in and to the Technology or any portion thereof.

2. Assignors irrevocably assign to Assignee all of Assignors' rights, title and interest in and to all patent applications and issued patents so derived from the Technology, together with any reissue, continuation, division, continuation-in-part or extension thereof, filed in the United States, as listed in Attachment A, and Internationally, as listed in Attachment B. In addition, Assignors irrevocably assign to Assignee all of Assignors' rights, title and interest in all invention disclosures as listed in Attachment C.

3. At any time, and from time to time after the date of execution of this Assignment, Assignors shall forthwith, upon Assignee's request, take any and all steps to

EXHIBIT C

03-20-03 01:14pm From-HUTCHINSON BLACK and COOK, LLC

3034426593

T-826 P.03

F-873

execute, acknowledge and deliver to Assignee any and all further instruments and assurances necessary or expedient in order to vest the aforesaid rights and causes of action more effectively in Assignee and to facilitate Assignee's enjoyment and enforcement of said rights and causes of action.

4. Assignors hereby constitute and appoint Assignee as Assignors' true and lawful attorney-in-fact, with full power of substitution in Assignors' name and stead, to take any and all steps, including proceedings at law, in equity or otherwise, to execute, acknowledge and deliver any and all instruments and assurances necessary or expedient in order to vest or perfect the aforesaid rights and causes of action more effectively in Assignee or to protect the same or to enforce any claim or right of any kind with respect thereto. This includes, but is not limited to, any rights with respect to the Technology that may accrue or have accrued in Assignors' favor from the respective date of creation of the Technology to the date of this Assignment. Assignors hereby declare that the foregoing power is coupled with an interest and is irrevocable.

5. To the extent, if any, that Assignors retain any right, title or interest with respect to the Technology or rights in any technology or materials that would be infringed by Assignee's use, sale, offer for sale, modification, making, maintenance, support, reproduction or distribution of any of the Technology, Assignors hereby grant to Assignee an exclusive, irrevocable, perpetual, fully paid-up, royalty-free, transferable, sublicensable, worldwide right and license to exploit and exercise all such technology and materials (i) to use, sell, offer to sell, modify, make, maintain, support, reproduce and distribute all or any portion of the Technology, including, without limitation, the making of additions to or deletions from the Technology, regardless of the medium (now or hereafter known) into which the Technology may be modified.

6. No waiver of any breach or condition of this Assignment shall be deemed to be a waiver of any other or subsequent breach or condition, whether of like or different nature. If any provision of this Assignment is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision shall be limited or eliminated to the minimum extent necessary so that this Assignment shall otherwise remain in full force and effect and enforceable. This Assignment shall be governed by and construed in accordance with the laws of the State of California applicable to contracts entered into and to be wholly performed within California, without regard to conflicts of laws provisions thereof.

WITHOUT LIMITING IN ANY WAY THE PROVISIONS OF THE ASSET PURCHASE AGREEMENT DATED FEBRUARY 19, 2003, BETWEEN ASSIGNORS AND ASSIGNEE, INCLUDING THE ASSIGNORS' REPRESENTATIONS AND WARRANTIES SET FORTH THEREIN, ALL OF WHICH APPLY TO THIS ASSIGNMENT AND ALL OF WHICH TERMS OF THE ASSET PURCHASE AGREEMENT ARE APPLICABLE TO THIS ASSIGNMENT AND THE CONVEYANCE EFFECTUATED PURSUANT HERETO, ASSIGNORS MAKE NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, BUT NOT LIMITED TO; THE TITLE TO THE TECHNOLOGY; THE CONDITION, DESIGN, OR QUALITY OF THE TECHNOLOGY; THE FITNESS OF THE TECHNOLOGY FOR USE OR FOR A PARTICULAR PURPOSE; THE MERCHANTABILITY OF THE TECHNOLOGY; COMPLIANCE OF THE

03-20-03 01:16pm From HUTCHINSON BLACK and COOK, LLC

3034426593

T-826 P.04/27 F-873

TECHNOLOGY WITH THE REQUIREMENTS OF ANY LAWS, RULES, SPECIFICATIONS OR CONTRACTS PERTAINING THERETO; PATENT INFRINGEMENT; LATENT DEFECTS; THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE TECHNOLOGY OR THE CONFORMITY OF THE TECHNOLOGY TO THE PROVISIONS AND SPECIFICATIONS OF ANY PURCHASE ORDER RELATING THERETO; THE OPERATION, USE, OR PERFORMANCE OF THE TECHNOLOGY; OR ANY OTHER REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE TECHNOLOGY. ASSIGNEE ALSO ACKNOWLEDGES THAT ASSIGNORS HAVE MADE NO REPRESENTATION OR WARRANTY OF ANY KIND, NATURE OR DESCRIPTION, EXPRESS OR IMPLIED, WITH RESPECT TO THE OPERATION, USE OR PERFORMANCE OF THE TECHNOLOGY.

ASSIGNORS SHALL HAVE NO LIABILITY TO ASSIGNEE OR ANY PERSON WHOMSOEVER (INCLUDING LICENSEES OR PURCHASERS OF ALL OR ANY OF THE TECHNOLOGY) FOR ANY CLAIM, LOSS, DAMAGE OR EXPENSE (INCLUDING ATTORNEY FEES) OF ANY KIND OR NATURE, WHETHER SPECIAL, CONSEQUENTIAL, ECONOMIC OR OTHERWISE, CAUSED OR ALLEGED TO BE CAUSED DIRECTLY, INDIRECTLY, INCIDENTALLY, OR CONSEQUENTIALLY BY THE TECHNOLOGY OR ANY PART THEREOF OR PRODUCTS THEREFROM, BY ANY INADEQUACY OF THE TECHNOLOGY OR DEFECT OR DEFICIENCY THEREIN, BY ANY INCIDENT WHATSOEVER ARISING IN STRICT LIABILITY OR OTHERWISE FROM ASSIGNORS' OR ASSIGNEE'S NEGLIGENCE OR OTHERWISE, OR FOR ANY LOSS OF BUSINESS OR DAMAGE WHATSOEVER AND HOWSOEVER CAUSED, OR ARISING OUT THE TECHNOLOGY.

Assignee acknowledges that Assignors have made no representation or warranty concerning the location of the Technology nor whether all of the Technology is in existence or operational. ASSIGNEE PURCHASES THE TECHNOLOGY AS IS AND WHERESOEVER LOCATED, WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND. Assignee accepts the Technology subject to the terms of this Assignment.

Assignee agrees to be responsible for all taxes, that are now existing or hereafter are incurred, assessed, or imposed on the Technology or as a result of the ownership or sale of the Technology, except as expressly provided otherwise in the Asset Purchase Agreement. Assignee hereby agrees to hold Assignors harmless from and against any and all taxes, that are now existing or are hereafter incurred, assessed or imposed on the Technology or as a result of the ownership of the Technology.

[The remainder of this page intentionally left blank]

SEP. 9. 2003 11:09AM

MACPHERSON KWOK CHEN

NO. 478 P. 17

03-20-03 01:15pm From HUTCHINSON BLACK and COOK, LLC

3034426593

T-826 P.05/27 F-873

IN WITNESS WHEREOF, Assignors have caused this Assignment to be signed in Assignors' name.

SILICON VALLEY BANK

Date: 3-4-2003

Marta Johnson
Signature of Assignor

Marta Johnson, Senior Vice President
Printed Name and Title

GATX VENTURES, INC.

Date: _____

Signature of Assignor

Printed Name and Title

SEQUEL ENTREPRENEURS' FUND II, L.P.
as Collateral Agent

Date: _____

Signature of Assignor

Printed Name and Title

SEP. 9. 2003 11:10AM

MACPHERSON KWOK CHEN

NO. 478 P. 18

03-20-03 01:15pm From HUTCHINSON BLACK and COOK, LLC

3034426583

T-826 P-06/27 F-873

IN WITNESS WHEREOF, Assignors have caused this Assignment to be signed in Assignors' name.

SILICON VALLEY BANK

Date: _____

Signature of Assignor

Printed Name and Title

GATX VENTURES, INC.

Date: 3-4-2003

Signature of Assignor

CARL F. SWANSON, v.p.
Printed Name and Title

SEQUEL ENTREPRENEURS' FUND II, L.P.
as Collateral Agent

Date: _____

Signature of Assignor

Printed Name and Title

SEP. 9. 2003 11:10AM

MACPHERSON KWOK CHEN

NO. 478 P. 19

03-20-03 01:15PM From HUTCHINSON BLACK and COOK, LLC

3034426593

T-826 P.07/27 F-873

IN WITNESS WHEREOF, Assignors have caused this Assignment to be signed in Assignors' name.

SILICON VALLEY BANK

Date: _____

Signature of Assignor

Printed Name and Title

GATX VENTURES, INC.

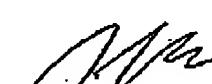
Date: _____

Signature of Assignor

Printed Name and Title

SEQUEL ENTREPRENEURS' FUND II, L.P.
as Collateral Agent

Date: 2-5-03


Signature of Assignor

John T. GREEK MANAGER
Printed Name and Title